

CONSTRUCTION SITE EROSION CONTROL ORDINANCE TOWN OF WATERFORD

TABLE OF CONTENTS

Foreword

S.01	Authority	(1) Permit Required
S.02	Findings of Fact	(2) Permit Application and Fees
S.03	Purpose and Intent	(3) Review and Approval of Permit
S.04	Applicability and Jurisdiction	Application
(1)	Applicability	(4) Surety Bond
(2)	Jurisdiction	(5) Permit Requirements
(3)	Exclusions	(6) Permit Conditions
S.05	Definitions	(7) Permit Duration
S.06	Technical Standards	(8) Maintenance
(1)	Design Criteria, Standards and Specifications	S.10 Erosion and Sediment Control Plan, Statement and Amendments
(2)	Other Standards	(1) Erosion and Sediment Control Plan
S.07	Performance Standards	(2) Erosion and Sediment Control Plan Statement
(1)	Responsible Party	(3) Amendments
(2)	Plan	S.11 Fee Schedule
(3)	Erosion and Other Pollutant Control Requirements	S.12 Inspection
(4)	Location	S.13 Enforcement
(5)	Alternate Requirements	S.14 Appeals
S.08	Environmentally Sensitive Areas	(1) Town Board
S.09	Permitting Requirements, Procedures and Fees	(2) Who May Appeal
		S.15 Severability
		S.16 Effective Date

**AN ORDINANCE TO CREATE
CHAPTER 15 OF THE CODE OF THE
TOWN OF WATERFORD RELATING
TO THE CONTROL OF
CONSTRUCTION SITE EROSION
RESULTING FROM LAND-
DISTURBING CONSTRUCTION
ACTIVITIES.**

FOREWORD

The intent of this Ordinance is to require use of best management practices to reduce the amount of storm water runoff, sediment and other pollutants resulting from land-disturbing construction activities on sites which are otherwise regulated by the Wisconsin Department of Commerce in s. Comm. 21.125 or 60.20, Wis. Adm. Code from reaching waters of the State and/or other properties. Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

The Town Board of Supervisors of the Town of Waterford does hereby ordain that Chapter 15 of the code of the Town of Waterford is created to read as follows:

CHAPTER 15

CONSTRUCTION SITE EROSION

S.01 AUTHORITY

(1) This ordinance is adopted under the authority granted by s. 60.267, Wis. Stats., for Towns. This ordinance supersedes all provisions of any previously enacted ordinance relating to construction site erosion control. Except as otherwise specified in s. 60.627 Wis. Stats., and to the extent applicable, s. 60.62 of the Wisconsin Statutes applies to this ordinance and to any amendments to this ordinance.

(2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body

(3) The Town Board of Supervisors hereby designates the Town of Waterford and/or its designees to administer and enforce the provisions of this ordinance.

(4) The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(c) The Town of Waterford.

(d) Racine County

S.02 FINDINGS OF FACT

The Town Board of Supervisors finds that uncontrolled, construction site erosion has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, but not limited to the following, uncontrolled runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(4) Reduce the quality of groundwater by increasing pollutant loading.

(5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

S.03 PURPOSE AND INTENT

(1) **PURPOSE.** The purpose of this ordinance is to establish construction site erosion control requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(a) Further the maintenance of safe and healthful conditions.

(b) Prevent and control the adverse effects of erosion; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(c) Control exceedance of the safe capacity of existing drainage facilities and water receiving bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(2) **INTENT.** It is the intent of the Town Board of Supervisors that this ordinance regulate construction site erosion. It is further the intent of this ordinance that the approved plan be used to identify construction site erosion management measures acceptable for the community.

S.04 APPLICABILITY AND JURISDICTION

(1) APPLICABILITY.

(a) This ordinance applies to construction sites of any size that are likely to result, in the opinion of the Town of Waterford, in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water; that causes undue channel erosion; that increases water pollution by scouring or

the transportation of particulate matter; or that endangers property or public safety unless the site is otherwise exempt under paragraph (b). See Section S13(8)

(b) This ordinance does not apply to the following:

1. Land-disturbing construction activity that includes the construction of a building in which erosion control is regulated by the Wisconsin Department of Commerce under s. Comm. 21.125 or 50.115, Wis. Adm. Code.

2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land-disturbing construction activity.

3. Nonpoint discharges from agricultural facilities and practices.

4. Nonpoint discharges from silviculture activities.

5. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility

6. Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(2) **JURISDICTION.** This ordinance applies to land-disturbing construction activity on construction sites located within the boundaries and jurisdiction of the Town of Waterford.

(3) **EXCLUSIONS.** This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to a promulgated State plan or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

S.05 DEFINITIONS

(1) “Administering authority” means a governmental employee or appointee/designee, or a regional planning commission empowered under s. 60.627, Wis. Stats. and designated by the Town of Waterford to administer this ordinance.

(2) “Agricultural facilities and practices” has the meaning given in s. 281.16, Wis. Stats.

(3) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.

(4) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

(5) “Business day” means a day the offices of the Town Hall is routinely and customarily open for business.

(6) “Cease and desist order” means a court-issued order to halt land-disturbing construction activity that is being conducted without the required permit.

(7) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.

(8) “Connected imperviousness” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(9) “Construction site” means an area upon which one or more land-disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land-disturbing construction activities may be taking place at different times on different schedules but under one plan

(10) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

(11) “Development” means residential, commercial, industrial or institutional land uses and associated roads.

(12) “Division of land” means the partitioning of one parcel into two or more parcels or building sites.

(13) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(14) “Erosion” means the process by which the land’s surface is worn away by the action of the wind, water, ice or gravity.

(15) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

(16) “Exceptional resource waters” means waters listed in s. NR 102.11, Wis. Adm. Code.

(17) “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or within 1.5 miles of a fourth class city or Town.

(18) “Final stabilization” means that all land-disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 80 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures.

(19) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Town of Waterford by the responsible party to assure that requirements of the ordinance are carried out in compliance with the erosion control or storm water management plan.

(20) “Governing body” means the Town of Waterford Board of Supervisors.

(21) “Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

(22) “In-fill area” means an undeveloped area of land located within existing development.

(23) “Infiltration” means the entry of precipitation or runoff into or through the soil.

(24) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural

infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(25) “Karst feature” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(26) “Land-disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion runoff and movement of sediment into waters of the state. Land-disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(27) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.

(28) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(29) “New development” means development resulting from the conversion

of previously undeveloped land or agricultural land uses.

(30) “Off-site” means located outside the property boundary described in the permit application.

(31) “On-site” means located within the property boundary described in the permit application.

(32) “Ordinary high-water mark” has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

(33) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.

(34) “Percent fines” means the percentage of a given sample of soil, which passes through a #200 sieve.

(35) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(36) “Permit” means a written authorization made by the Town of Waterford to the applicant to conduct land-disturbing construction activity or to discharge post-construction runoff to waters of the State.

(37) “Permit administration fee” means a sum of money paid to the Town of Waterford by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(38) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(39) “Pollutant” has the meaning given in s. 283.01(13), Wis. Stats.

(40) “Pollution” has the meaning given in s. 281.01(10), Wis. Stats.

(41) “Post-construction site” means a construction site following the completion of land-disturbing construction activity and final site stabilization.

(42) “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land-disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(43) “Preventative action limit” has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

(44) “Redevelopment” means areas where development is replacing older development.

(45) “Responsible party” means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(46) “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(47) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(48) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutter, ditches,

constructed channels or storm drains, which meets all of the following criteria:

- (a) Is designed or used for collecting water or conveying runoff.
- (b) Is not part of a combined sewer system.
- (c) Is not draining to a storm water treatment device or system.
- (d) Discharges directly or indirectly to waters of the State.

(49) “Site” means the entire area included in the legal description of the land on which the land-disturbing construction activity will.

(50) “Stop work order” means an order issued by the Town of Waterford requiring that all construction activity on the site be stopped.

(51) “Storm water management plan” means a comprehensive plan designed to reduce the flow rate, runoff volume, and discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

(52) “Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(53) “Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(54) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land

begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

(55) “TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(56) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. Rainfall depths shall be consistent with Technical Report 40, “Rainfall Frequency in the Southeastern Wisconsin Region”, SEWRPC, April, 2000.

(57) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

S.06 TECHNICAL STANDARDS

(1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

(a) Applicable design criteria, standards and specifications as maintained by the Wisconsin Department of Natural Resources. Design criteria, standards and specifications may be found on the Wisconsin Department of Natural Resources internet site: www.dnr.state.wi.us.

(b) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the Town of Waterford and/or the Town Engineer.

S.07 PERFORMANCE STANDARDS

(1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with S.10 that incorporates the requirements of this section.

(2) PLAN. A written erosion control plan shall be developed in accordance with S. 10 and implemented for each construction site.

(3) REQUIREMENTS. The plan required under sub. (2) shall include the following:

(a) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or

both, of land-disturbing construction activity, or other appropriate mechanism.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces. All surface debris/sediment must be removed by sweeping (and not washing) no later than the end of each workday.

2. Prevent the discharge of sediment as part of site dewatering.

3. Protect the separate storm drain inlet structure from receiving sediment.

4. Protect environmentally sensitive areas, such as but not necessarily limited to, the Fox River, Lake Tichigan, Fox River Impoundment from receiving sediment and/or storm water runoff.

(d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed/controlled during the construction period, to prevent their entrance into waters of the State. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(5) ALTERNATE REQUIREMENTS. The Town of Waterford may establish erosion control requirements more stringent than those set forth in this section if the Town of Waterford determines that an added level of protection is needed for sensitive resources.

S.08 ENVIRONMENTALLY SENSITIVE AREAS

For any area determined by the Town to be environmentally sensitive more stringent erosion control requirements may be imposed. Additional requirements may include, but are not limited to the following.

(1) Prior to land disturbing construction activity, silt fences, biologs and/or flocculants shall be installed. Installation of intermediate temporary erosion control measures and immediate restoration of road ditches, swales, or other disturbed areas upon completion of rough grading. Intermediate provisions may include placement and installation of topsoil, seed, sod, erosion matting, ditch checks, polyacrylamide, flocculants, silt fences, biologs or other erosion control measures used for stabilization. Intermediate erosion control measures shall be immediately restored if damaged or destroyed by subsequent utility installation(s) or construction activity. Permanent erosion control measures shall be installed immediately after final grading is completed.

(2) Off-site sediment survey of pre-construction versus post-construction conditions of downstream water bodies to determine construction erosion impact and any remediation requirements approved by the Town of Waterford.

S.09 PERMITTING REQUIREMENTS, PROCEDURES AND FEES

(1) PERMIT REQUIRED. No responsible party may commence a land-disturbing construction activity subject to this ordinance without receiving a permit pursuant to the terms of this Ordinance from the Town of Waterford.

(2) PERMIT APPLICATION AND FEES.

At least one responsible party desiring to undertake a land-disturbing construction activity subject to this ordinance shall submit an application for a permit and a written erosion and sediment control plan that meets the requirements of S.10 and shall pay an application fee as required in S. 11 to the Town of Waterford. By submitting an application, the applicant is authorizing the Town of Waterford to enter the site to obtain information required for the review of the erosion and sediment control plan.

(a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by an erosion control plan and a non-refundable permit administration fee.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. For non-subdivision developments, being single or two family homes, the initial review and approval of the application shall rest with the Town Building Inspector. In the event the Building Inspector, in his/her sole discretion, determines more expertise is needed or that the erosion control plan is inadequate, the Building Inspector may refer the application/plan to any other entity, or individual, including the Town Engineer, for his/her/its comment and/or for approval. The Building Inspector and/or his designee, as stated above in this subsection, shall review any permit application that is submitted with

the proper application fee and erosion control plan. He/she shall determine if a written erosion and sediment control plan and therefore a permit is required. If a permit is required, the following approval procedure shall be used:¹

(a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the Town of Waterford shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

(b) If the permit application and plan are approved, the Town of Waterford shall issue the permit.

(c) If the permit application or plan is disapproved, the Town of Waterford shall state in writing the reasons for disapproval.

(d) The Town of Waterford may request additional information from the applicant. If additional information is submitted, the Town of Waterford shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the Town of Waterford to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Town of Waterford shall require the applicant to deposit a surety bond or irrevocable letter of credit in the amount equal to 125% of the estimated construction costs related to the construction site erosion

and sediment controls, to guarantee a good faith execution of the approved erosion control plan and any permit conditions and also to cover possible engineering/legal fees, if any. The construction cost estimates shall be submitted to the Town Engineer for review and approval.

(5) **PERMIT REQUIREMENTS.** All permits shall require:

(a) That land Disturbance Activities may only occur between the dates of May 1st and September 15th unless otherwise approved by the Town Board. Land disturbance activities that occur before or after the prescribed dates will be subject to enforcement actions as described in S13 of this ordinance.

(b) That the Town be notified within 5 business days prior to the commencement of any land-disturbing construction activity.

(c) That the Town be notified of any BMPs at least seventy-two hours prior to their installation.

(d) That permission in writing from the Town of Waterford must be obtained prior to any modification pursuant to S10. (3) of the erosion and sediment control plan.

(e) That installation of all BMPs must be as identified in the approved erosion and sediment control plan.

(f) That the following must be maintained in good repair: all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(g) That, within 24 hours of notification to the Owner/Developer/Contractor of the failure of any BMP and/or other violation of this Ordinance, the following must occur: the repair, under direction of the Town of Waterford, of any siltation or erosion

¹ For subdivision development as defined in the Town Land Use Ordinance, see the Town of Waterford Land Use Ordinance

damage to adjacent lands and drainage ways resulting from land-disturbing construction activities and documentation of the repairs must be inserted in a site erosion control log.

(h) That inspection of the BMPs must take place within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week the responsible party must make needed repairs and must also document the findings of the inspections in a site erosion control log with the date of inspection, said documentation must indicate the repairs needed to be made and those already made; the name of the person conducting the inspection, and a description of the present phase of the construction at the site. The responsible party shall maintain the Erosion Control Inspection logs per the requirements of the General Permit to discharge under the Construction Site Storm Water Runoff WPDES permit that is issued by the State of Wisconsin.

(i) That allowance must be made for the Town of Waterford to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. The responsible person must keep a copy of the erosion and sediment control plan at the construction site.

(j) That inspections of erosion and sediment controls within environmentally sensitive areas and within 1000 feet of the Fox River and Tichigan Lake, shall occur within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods and at a minimum of twice a week. Damaged or failed BMP's shall be repaired immediately within 24 hours upon discovery. There must be documentation of the findings of the inspections in a site erosion control log which includes the date of inspection, the

name of the person conducting the inspection, the condition of the BMP's, the repairs made, and a description of the present phase of the construction at the site.

(k) That require that soil stockpiles shall not be located with a down slope drainage length of less than 25 feet to a roadway or drainage channel. Adjacent lands shall be protected from stockpile erosion with appropriate BMP's. Stockpiles shall be stabilized with temporary seeding or mulch if left exposed for more than 7 days.

(l) That require that land disturbance activities on the site to be conducted so as to minimize the area of bare soils exposed. All existing vegetation cover shall be maintained and protected where practical.

(m) That require that the responsible party shall submit erosion control inspection reports and construction progress report to the Town Engineer on a weekly basis.

(6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the Town of Waterford in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S.07.

(7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer. The Town of Waterford may extend the period one or more times for up to an additional 180 days. The Town of Waterford may require additional BMPs as a condition of the extension.

(8) MAINTENANCE. The responsible party, throughout the duration of the construction activities, shall maintain all

BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

(a) Any maintenance, repair or additional erosion control measures required shall be completed within 24 hours after notification by the Town.

(b) All disturbed areas that are left inactive for over 7 days shall be stabilized with temporary or permanent erosion controls.

S.10 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

(1) EROSION AND SEDIMENT CONTROL PLAN.

(a) A written erosion and sediment control plan shall be prepared and submitted to the Town of Waterford.

(b) The erosion and sediment control plan shall be designed to meet the performance standards in S.07 and other requirements of this ordinance.

(c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

1. The name(s), address(es), daytime and emergency telephone numbers of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

2. Description of the site and nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

4. Estimates of the total area of the site and the total area of the site expected to be disturbed by construction activities.

5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

7. Existing data describing the surface soil as well as subsoils.

8. Depth to groundwater, as indicated by Natural Resources Conservation Service.

9. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

10. Other information requested in writing by the Town of Waterford and/or its designee to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

11. A site map, which site map shall include the following items and shall be at an appropriate scale and contour. The site map shall consist of, but not be necessarily limited to a description of listing of:

- a. Existing building(s), topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified primary and secondary environmental corridors, wetlands, 100-year flood plains, flood fringes and floodways shall also be shown.
- b. Boundaries of the construction site
- c. Drainage patterns and approximate slopes anticipated after major grading activities.
- d. Areas of soil disturbance.
- e. Location of major structural and non-structural controls identified in the plan
- f. Location of areas where stabilization practices will be employed.
- g. Areas and type of vegetated/landscaped which will follow construction.
- h. Aerial drawing showing the extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland
- i. Locations of all surface waters and wetlands within one mile of the construction site or such other distance as approved by the Town of Waterford.
- j. An alphanumeric or equivalent grid overlying the entire construction site map.

k. A description of appropriate controls and measures that will be performed at the site to prevent storm water runoff, sediments and pollutants from reaching waters of the state. The plan shall clearly describe the appropriate BMP's for each sequenced or phased activity and the timing during the construction process that the BMP's will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

- i. A description of interim and permanent stabilization practices. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
- ii. A description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of storm water runoff, sediments and pollutants from the site. Unless otherwise specifically approved in writing by the Town of Waterford, structural measures shall be installed on upland soils.
- iii. A description of the management of overland flow at all sites, unless otherwise controlled by outfall controls.
- iv. A description of how sedimentation in canalized flow will be undertaken.
- v. A description of the staging of construction to limit bare areas subject to erosion.
- vi. A description of the protection of down slope drainage inlets where they occur.
- vii. Plans for the minimization of tracking of debris at all sites.
- viii. Plans for clean up of off-site sediment deposits, by sweeping and not washing to be completed no later than the end of each work day.

ix. Plans for proper disposal of building and waste materials at all sites.

x. Plans for stabilization of drainage ways.

xi. Plans for control of soil erosion from dirt stockpiles.

xii. Plans for the installation of permanent stabilization practices within 7 days after final grading.

xiii. Plans for the minimization of dust to the maximum extent practicable.

xiv. The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

xv. All site investigations, plans, designs, computations, and drawings shall be certified by a Wisconsin-licensed professional engineer to have been prepared in accordance with accepted engineering practice and requirements of this ordinance.

(2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under S.04(1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Town of Waterford. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(3) AMENDMENTS. The applicant shall amend the plan if any of the following occur:

(a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The Town of Waterford notifies the applicant of changes needed in the plan.

S.11 FEE SCHEDULE

(1) The fees referred to in other sections of this ordinance shall be established by the Town of Waterford and may from time to time be modified by resolution. A schedule of the fees established by the Town of Waterford shall be available for review in the Town Hall

(2) Projects of one (1) acre or less - \$75

(3) Projects of more than one (1) acre - \$75 per acre

(4) Additional fees may be assessed by the Town of Waterford on a case by case basis based upon the unique requirements of each project.

S.12 INSPECTION

(1) If land-disturbing construction activities are being carried out without a permit required by this ordinance, the Town of Waterford may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

(2) Inspection of the erosion and sediment controls shall be completed by the Town Engineer or a designee of the Town Board. All fees associated with the inspection costs shall be paid by the responsible party to the Town of Waterford

S.13 ENFORCEMENT

Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(1) The Town of Waterford may post a stop-work order if any of the following occurs:

(a) Any land-disturbing construction activity regulated under this ordinance is being undertaken without a permit.

(b) The erosion and sediment control plan is not being implemented in a good faith manner.

(c) The conditions of the permit are not being met.

(2) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions in this ordinance, the Town of Waterford may revoke the permit.

(3) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Town of Waterford, or if a responsible party violates a stop-work order posted under sub. (1), the Town of Waterford may request the Town

attorney to obtain a cease and desist order in any court with jurisdiction.

(4) The Town of Waterford may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2).

(5) After posting a stop-work order under sub. (1), the Town of Waterford may issue to the responsible party a notice of intent to perform work necessary to comply with this ordinance. The Town of Waterford may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Town of Waterford, plus interest plus reasonable attorney and engineering fees, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(6) Any person, firm, association, or corporation (failing to) comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 500 dollars or more than 1,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense

(7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or (to obtain) a cease and desist order before resorting to an injunction proceeding.

(8) At its sole discretion, the Town or its designee(s) charged with enforcing this ordinance may determine which (if any) provisions of this ordinance apply to proposed project. The Town or its designee(s) may waive any or all provisions of this ordinance for a proposed project.

S.14 APPEALS

(1) The Town board shall hear and consider appeals made as follows:

(a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town of Waterford in administering this ordinance except for cease and desist orders obtained under S.12 (3).

(b) Upon appeal, the board may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

(c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(2) WHO MAY APPEAL. Appeals to the board may be taken by any aggrieved person or by any officer, department, board, or bureau of the Town of Waterford affected by any decision of the Town of Waterford made under this ordinance.

S.15 SEVERABILITY

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and shall not be affected by such judgment.

S.16 EFFECTIVE DATE

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of Supervisors of the Town of Waterford on the 9th day of February, 2009.

Approved: _____

Attested: _____

Posted on _____